

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 348**

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**Introduced by Senator Cogdill**

February 25, 2009

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An act to amend Section ~~1936.01~~ *1936.015* of the Civil Code, relating to passenger vehicle rentals.

LEGISLATIVE COUNSEL'S DIGEST

SB 348, as amended, Cogdill. Passenger vehicle rentals: advertising.

Existing law, *effective May 21, 2009*, requires a passenger vehicle rental company to only advertise a rental rate that includes the entire amount, except taxes, *the increased vehicle license fee*, any customer facility charge, and any mileage charge, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. Existing law authorizes the rental company to, when imposing charges for a rental, *to* separately state the rental rate, taxes, *increased vehicle license fee*, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any.

~~This bill would specifically exclude the airport concession fee, if any, and tourism commission assessment, if any, from the entire amount that the rental company must include in its advertised rental rate.~~

*Existing law, effective May 21, 2009, also requires the rental company, if customer facility charges, airport concession fees, or tourism commission assessments are imposed, to provide the person receiving the quote with a good-faith estimate of the rental rate and certain taxes and charges, including the increased vehicle license fee, when the quote is given, to clearly and conspicuously disclose in the rental contract the total rate and certain taxes and charges, including*

*the increased vehicle license fee, when the rental commences, and to provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about certain taxes and charges, including the increased vehicle license fee.*

*Existing law, effective May 21, 2009, defines the increased vehicle license fee as the amount of the fee increase in the vehicle license fee above 0.65% of the value of the vehicle. Existing law requires that fee to be separately charged, clearly stated, and prorated at  $\frac{1}{365}$  of the fee increase in the annual vehicle license fee actually paid on the particular vehicle being rented for each full or partial 24-hour rental day that the vehicle is rented. Existing law prohibits the total of all increased vehicle license fees charged to renters from exceeding the fee increase in the annual vehicle license fee actually paid for the particular vehicle rented.*

*This bill would provide that if a rental company includes an increased vehicle license recovery fee in the rental contract, the amount of the fee shall represent the rental company's good-faith estimate of the rental company's daily charge calculated to recover its actual total annual increased vehicle license fee, and shall be separately and clearly stated. The bill would prohibit the total of all increased vehicle license recovery fees charged to renters on an annual basis from exceeding the total fee increase in the annual vehicle license fees actually paid by the rental company.*

*The bill would define increased vehicle license recovery fee as a charge designed to recover costs incurred by a rental company for payment of increased vehicle license fees.*

*The bill would also provide that if the total amount of the increased vehicle license recovery fees collected by a rental company under these provisions in any calendar year is different than the total amount paid by a rental company for increased vehicle license fees, the rental company shall retain the amount collected and adjust the increased vehicle license recovery fee in the following calendar year. The bill would provide that nothing in those provisions would prevent a rental company from making adjustments to the vehicle license recovery fee more than once during a calendar year.*

*The bill would make other related, technical changes.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1936.015 of the Civil Code, as added by*  
2     *Chapter 8 of the Statutes of 2009, of the Second Extraordinary*  
3     *Session, is amended to read:*

4     1936.015. (a) For the purposes of this section, the following  
5     definitions shall apply:

6     (1) “Vehicle license fee” has the same meaning as in Sections  
7     10751 and 10752 of the Revenue and Taxation Code, as that fee  
8     existed on January 1, 2009.

9     (2) “Increased vehicle license fee” means the amount of the fee  
10    increase in the vehicle license fee above 0.65 percent of the value  
11    of the vehicle. ~~The~~

12    (3) *“Increased vehicle license recovery fee” means a charge*  
13    *designed to recover costs incurred by a rental company for*  
14    *payment of increased vehicle license fees. If a rental company*  
15    *includes a vehicle license recovery fee in the rental contract, the*  
16    *amount of the fee shall represent the rental company’s good-faith*  
17    *estimate of the rental company’s daily charge calculated to recover*  
18    *its actual total annual increased vehicle license fee, and shall be*  
19    *separately charged, and clearly stated, and prorated at one-third*  
20    ~~*hundred sixty-fifth of the fee increase in the annual vehicle license*~~  
21    ~~*fee actually paid on the particular vehicle being rented for each*~~  
22    ~~*full or partial 24-hour rental day that the vehicle is rented. The*~~  
23    ~~*total of all increased vehicle license recovery fees charged to*~~  
24    ~~*renters on an annual basis shall not exceed the total fee increase*~~  
25    ~~*in the annual vehicle license fee fees actually paid for the particular*~~  
26    ~~*vehicle rented by the rental company.*~~

27    (b) Notwithstanding subdivision (n) of Section 1936 or  
28    subdivision (b) of Section 1936.01, upon an increase of the vehicle  
29    license fee above 0.65 percent of the value of the vehicle pursuant  
30    to legislation enacted with the Budget Act of 2009, the following  
31    provisions shall apply with respect to the increased vehicle license  
32    fee:

33    (1) *If the total amount of the increased vehicle license recovery*  
34    *fees collected by a rental company under this section in any*  
35    *calendar year is different than the total amount paid by a rental*  
36    *company for increased vehicle license fees, the rental company*  
37    *shall do both of the following:*

38    (A) *Retain the amount collected.*

1     (B) *Adjust the increased vehicle license recovery fee in the*  
2     *following calendar year.*

3     (2) *Nothing in this section shall prevent a rental company from*  
4     *making adjustments to the vehicle license recovery fee more than*  
5     *once during a calendar year.*

6     ~~(1)~~

7     (3) A rental company shall only advertise a rental rate that  
8     includes the entire amount, except taxes, the increased vehicle  
9     license *recovery* fee, a customer facility charge, if any, and a  
10    mileage charge, if any, that a renter must pay to hire or lease the  
11    vehicle for the period of time to which the rental rate applies.

12    ~~(2)~~

13    (4) When providing a quote, or imposing charges for a rental,  
14    the rental company may separately state the rental rate, taxes, the  
15    increased vehicle license *recovery* fee, customer facility charge,  
16    if any, airport concession fee, if any, tourism commission  
17    assessment, if any, and a mileage charge, if any, that a renter must  
18    pay to hire or lease the vehicle for the period of time to which the  
19    rental rate applies. A rental company may not charge in addition  
20    to the rental rate, taxes, the increased vehicle license *recovery* fee,  
21    a customer facility charge, if any, airport concession fee, if any,  
22    tourism commission assessment, if any, and a mileage charge, if  
23    any, any fee that must be paid by the renter as a condition of hiring  
24    or leasing the vehicle, such as, but not limited to, required fuel or  
25    airport surcharges other than customer facility charges and airport  
26    concession fees.

27    ~~(3)~~

28    (5) If customer facility charges, airport concession fees, or  
29    tourism commission assessments are imposed, the rental company  
30    shall do each of the following:

31    (A) At the time the quote is given, provide the person receiving  
32    the quote with a good faith estimate of the rental rate, taxes, the  
33    increased vehicle license *recovery* fee, customer facility charge,  
34    if any, airport concession fee, if any, and tourism commission  
35    assessment, if any, as well as the total charges for the entire rental.  
36    The total charges, if provided on an Internet Web site, shall be  
37    displayed in a typeface at least as large as any rental rate disclosed  
38    on that page and shall be provided on a page that the person  
39    receiving the quote may reach by following links through no more  
40    than two Internet Web site pages, including the page on which the

1 rental rate is first provided. The good faith estimate may exclude  
2 mileage charges and charges for optional items that cannot be  
3 determined prior to completing the reservation based upon the  
4 information provided by the person.

5 (B) At the time and place the rental commences, clearly and  
6 conspicuously disclose in the rental contract, or that portion of the  
7 contract that is provided to the renter, the total of the rental rate,  
8 taxes, the increased vehicle license *recovery* fee, customer facility  
9 charge, if any, airport concession fee, if any, and tourism  
10 commission assessment, if any, for the entire rental, exclusive of  
11 charges that cannot be determined at the time the rental  
12 commences. Charges imposed pursuant to this subparagraph shall  
13 be no more than the amount of the quote provided in a confirmed  
14 reservation, unless the person changes the terms of the rental  
15 contract subsequent to making the reservation.

16 (C) Provide each person, other than those persons within the  
17 rental company, offering quotes to actual or prospective customers  
18 access to information about the increased vehicle license *recovery*  
19 fee, customer facility charges, airport concession fees, and tourism  
20 commission assessments as well as access to information about  
21 when those charges apply. Any person providing quotes to actual  
22 or prospective customers for the hire or lease of a vehicle from a  
23 rental company shall provide the quotes in the manner described  
24 in subparagraph (A).

25 ~~(4)~~

26 (6) In addition to the rental rate, taxes, the increased vehicle  
27 license *recovery* fee, customer facility charges, if any, airport  
28 concession fees, if any, tourism commission assessments, if any,  
29 and mileage charges, if any, a rental company may charge for an  
30 item or service provided in connection with a particular rental  
31 transaction if the renter could have avoided incurring the charge  
32 by choosing not to obtain or utilize the optional item or service.  
33 Items and services for which the rental company may impose an  
34 additional charge, include, but are not limited to, optional insurance  
35 and accessories requested by the renter, service charges incident  
36 to the renter's optional return of the vehicle to a location other  
37 than the location where the vehicle was hired or leased, and charges  
38 for refueling the vehicle at the conclusion of the rental transaction  
39 in the event the renter did not return the vehicle with as much fuel  
40 as was in the fuel tank at the beginning of the rental. A rental

1 company also may impose an additional charge based on  
2 reasonable age criteria established by the rental company.

3 ~~(5)~~

4 (7) A rental company may not charge any fee for authorized  
5 drivers in addition to the rental charge for an individual renter.

6 ~~(6)~~

7 (8) If a rental company states a rental rate in print advertisement  
8 or in a telephonic, in-person, or computer-transmitted quote, the  
9 rental company shall clearly disclose in that advertisement or quote  
10 the terms of any mileage conditions relating to the rental rate  
11 disclosed in the advertisement or quote, including, but not limited  
12 to, to the extent applicable, the amount of mileage and gas charges,  
13 the number of miles for which no charges will be imposed, and a  
14 description of geographic driving limitations within the United  
15 States and Canada.

16 ~~(7)~~

17 (9) (A) When a rental rate is stated in an advertisement, in  
18 connection with a car rental at an airport where a customer facility  
19 charge is imposed, the rental company shall clearly disclose the  
20 existence and amount of the customer facility charge. For the  
21 purposes of this subparagraph, advertisements include radio,  
22 television, other electronic media, and print advertisements. If the  
23 rental rate advertisement is intended to include transactions at more  
24 than one airport imposing a customer facility charge, a range of  
25 charges may be stated in the advertisement. However, all rental  
26 rate advertisements that include car rentals at airport destinations  
27 shall clearly and conspicuously include a toll-free telephone  
28 number whereby a customer can be told the specific amount of  
29 the customer facility charge to which the customer will be  
30 obligated.

31 (B) If any person or entity other than a rental-~~car~~ company,  
32 including a passenger carrier or a seller of travel services, advertises  
33 a rental rate for a car rental at an airport where a customer facility  
34 charge is imposed, that person or entity shall, provided they are  
35 provided with information about the existence and amount of the  
36 charge, to the extent not specifically prohibited by federal law,  
37 clearly disclose the existence and amount of the charge. If a rental  
38 ~~car~~ company provides the person or entity with rental rate and  
39 customer facility charge information, the rental-~~car~~ company is

1 not responsible for the failure of that person or entity to comply  
2 with this subparagraph.

3 ~~(8)~~

4 (10) If a rental company delivers a vehicle to a renter at a  
5 location other than the location where the rental company normally  
6 carries on its business, the rental company may not charge the  
7 renter any amount for the rental for the period before the delivery  
8 of the vehicle. If a rental company picks up a rented vehicle from  
9 a renter at a location other than the location where the rental  
10 company normally carries on its business, the rental company may  
11 not charge the renter any amount for the rental for the period after  
12 the renter notifies the rental company to pick up the vehicle.

13 ~~(9)~~

14 (11) Except as otherwise permitted pursuant to the customer  
15 facility charge, a rental company may not separately charge, in  
16 addition to the rental rate, a fee for transporting the renter to the  
17 location where the rented vehicle will be delivered to the renter.

18 (c) A renter may bring an action against a rental company for  
19 the recovery of damages and appropriate equitable relief for a  
20 violation of this section. The prevailing party shall be entitled to  
21 recover reasonable attorney's fees and costs.

22 (d) Any waiver of any of the provisions of this section shall be  
23 void and unenforceable as contrary to public policy.

24 (e) ~~(4)~~—This section shall become operative only if Senate Bill  
25 3 or Assembly Bill 3 of the 2009–10 Third Extraordinary Session  
26 of the Legislature is enacted and increases the vehicle license fee  
27 above 0.65 percent of the value of the vehicle and shall cease to  
28 become operative upon restoration of the vehicle license fee to no  
29 more than 0.65 percent of the value of the vehicle.

30 ~~(2) Provisions of this section relating to the disclosure and~~  
31 ~~separately stated charges for a customer facility charge or an airport~~  
32 ~~concession fee shall remain operative so long as the Secretary of~~  
33 ~~Business, Transportation and Housing provides notice to the~~  
34 ~~Legislature and the Secretary of State and posts notice on its~~  
35 ~~Internet Web site that the conditions described in Section 13995.92~~  
36 ~~of the Government Code have been satisfied.~~

37 SECTION 1. ~~Section 1936.01 of the Civil Code is amended~~  
38 ~~to read:~~

39 1936.01. (a) ~~For the purpose of this section, the following~~  
40 ~~definitions shall apply:~~

1     ~~(1) “Airport concession fee” means a charge collected by a~~  
2     ~~rental company from a renter that is the renter’s proportionate~~  
3     ~~share of the amount paid by the rental company to the owner or~~  
4     ~~operator of an airport for the right or privilege of conducting a~~  
5     ~~vehicle rental business on the airport’s premises.~~

6     ~~(2) “Quote” means an estimated cost of rental provided by a~~  
7     ~~rental company or a third party to a potential customer by~~  
8     ~~telephone, in-person, computer transmission, or other means, that~~  
9     ~~is based on information provided by the potential customer and~~  
10    ~~used to generate an estimated cost of rental, including, but not~~  
11    ~~limited to, any of the following: potential dates of rental, locations,~~  
12    ~~or classes of car.~~

13    ~~(3) “Tourism commission assessment” means the charge~~  
14    ~~collected by a rental company from a renter that has been~~  
15    ~~established by the California Travel and Tourism Commission~~  
16    ~~pursuant to Section 13995.65 of the Government Code.~~

17    ~~(b) Notwithstanding subdivision (n) of Section 1936, the~~  
18    ~~following provisions shall apply:~~

19    ~~(1) A rental company shall only advertise a rental rate that~~  
20    ~~includes the entire amount, except taxes, a customer facility charge,~~  
21    ~~if any, the airport concession fee, if any, tourism commission~~  
22    ~~assessment, if any, and a mileage charge, if any, that a renter must~~  
23    ~~pay to hire or lease the vehicle for the period of time to which the~~  
24    ~~rental rate applies.~~

25    ~~(2) When providing a quote, or imposing charges for a rental,~~  
26    ~~the rental company may separately state the rental rate, taxes,~~  
27    ~~customer facility charge, if any, airport concession fee, if any,~~  
28    ~~tourism commission assessment, if any, and a mileage charge, if~~  
29    ~~any, that a renter must pay to hire or lease the vehicle for the period~~  
30    ~~of time to which the rental rate applies. A rental company may not~~  
31    ~~charge in addition to the rental rate, taxes, a customer facility~~  
32    ~~charge, if any, airport concession fee, if any, tourism commission~~  
33    ~~assessment, if any, and a mileage charge, if any, any fee that must~~  
34    ~~be paid by the renter as a condition of hiring or leasing the vehicle,~~  
35    ~~such as, but not limited to, required fuel or airport surcharges other~~  
36    ~~than customer facility charges and airport concession fees.~~

37    ~~(3) If customer facility charges, airport concession fees, or~~  
38    ~~tourism commission assessments are imposed, the rental company~~  
39    ~~shall do each of the following:~~



1     ~~(A) At the time the quote is given, provide the person receiving~~  
2     ~~the quote with a good faith estimate of the rental rate, taxes,~~  
3     ~~customer facility charge, if any, airport concession fee, if any, and~~  
4     ~~tourism commission assessment, if any, as well as the total charges~~  
5     ~~for the entire rental. The total charges, if provided on an Internet~~  
6     ~~Web site, shall be displayed in a typeface at least as large as any~~  
7     ~~rental rate disclosed on that page and shall be provided on a page~~  
8     ~~that the person receiving the quote may reach by following links~~  
9     ~~through no more than two Internet Web site pages, including the~~  
10    ~~page on which the rental rate is first provided. The good faith~~  
11    ~~estimate may exclude mileage charges and charges for optional~~  
12    ~~items that cannot be determined prior to completing the reservation~~  
13    ~~based upon the information provided by the person.~~

14    ~~(B) At the time and place the rental commences, clearly and~~  
15    ~~conspicuously disclose in the rental contract, or that portion of the~~  
16    ~~contract that is provided to the renter, the total of the rental rate,~~  
17    ~~taxes, customer facility charge, if any, airport concession fee, if~~  
18    ~~any, and tourism commission assessment, if any, for the entire~~  
19    ~~rental, exclusive of charges that cannot be determined at the time~~  
20    ~~the rental commences. Charges imposed pursuant to this~~  
21    ~~subparagraph shall be no more than the amount of the quote~~  
22    ~~provided in a confirmed reservation, unless the person changes~~  
23    ~~the terms of the rental contract subsequent to making the~~  
24    ~~reservation.~~

25    ~~(C) Provide each person, other than those persons within the~~  
26    ~~rental company, offering quotes to actual or prospective customers~~  
27    ~~access to information about customer facility charges, airport~~  
28    ~~concession fees, and tourism commission assessments as well as~~  
29    ~~access to information about when those charges apply. Any person~~  
30    ~~providing quotes to actual or prospective customers for the hire~~  
31    ~~or lease of a vehicle from a rental company shall provide the quotes~~  
32    ~~in the manner described in subparagraph (A).~~

33    ~~(4) In addition to the rental rate, taxes, customer facility charges,~~  
34    ~~if any, airport concession fees, if any, tourism commission~~  
35    ~~assessments, if any, and mileage charges, if any, a rental company~~  
36    ~~may charge for an item or service provided in connection with a~~  
37    ~~particular rental transaction if the renter could have avoided~~  
38    ~~incurring the charge by choosing not to obtain or utilize the~~  
39    ~~optional item or service. Items and services for which the rental~~  
40    ~~company may impose an additional charge, include, but are not~~

1 limited to, optional insurance and accessories requested by the  
2 renter, service charges incident to the renter's optional return of  
3 the vehicle to a location other than the location where the vehicle  
4 was hired or leased, and charges for refueling the vehicle at the  
5 conclusion of the rental transaction in the event the renter did not  
6 return the vehicle with as much fuel as was in the fuel tank at the  
7 beginning of the rental. A rental company also may impose an  
8 additional charge based on reasonable age criteria established by  
9 the rental company.

10 (5) A rental company may not charge any fee for authorized  
11 drivers in addition to the rental charge for an individual renter.

12 (6) If a rental company states a rental rate in print advertisement  
13 or in a telephonic, in-person, or computer-transmitted quote, the  
14 rental company shall clearly disclose in that advertisement or quote  
15 the terms of any mileage conditions relating to the rental rate  
16 disclosed in the advertisement or quote, including, but not limited  
17 to, to the extent applicable, the amount of mileage and gas charges,  
18 the number of miles for which no charges will be imposed, and a  
19 description of geographic driving limitations within the United  
20 States and Canada.

21 (7) (A) When a rental rate is stated in an advertisement, in  
22 connection with a car rental at an airport where a customer facility  
23 charge is imposed, the rental company shall clearly disclose the  
24 existence and amount of the customer facility charge. For the  
25 purposes of this subparagraph, advertisements include radio,  
26 television, other electronic media, and print advertisements. If the  
27 rental rate advertisement is intended to include transactions at more  
28 than one airport imposing a customer facility charge, a range of  
29 charges may be stated in the advertisement. However, all rental  
30 rate advertisements that include car rentals at airport destinations  
31 shall clearly and conspicuously include a toll-free telephone  
32 number whereby a customer can be told the specific amount of  
33 the customer facility charge to which the customer will be  
34 obligated.

35 (B) If any person or entity other than a rental car company,  
36 including a passenger carrier or a seller of travel services, advertises  
37 a rental rate for a car rental at an airport where a customer facility  
38 charge is imposed, that person or entity shall, provided they are  
39 provided with information about the existence and amount of the  
40 charge, to the extent not specifically prohibited by federal law,

1 clearly disclose the existence and amount of the charge. If a rental  
2 car company provides the person or entity with rental rate and  
3 customer facility charge information, the rental car company is  
4 not responsible for the failure of that person or entity to comply  
5 with this subparagraph.

6 (8) If a rental company delivers a vehicle to a renter at a location  
7 other than the location where the rental company normally carries  
8 on its business, the rental company may not charge the renter any  
9 amount for the rental for the period before the delivery of the  
10 vehicle. If a rental company picks up a rented vehicle from a renter  
11 at a location other than the location where the rental company  
12 normally carries on its business, the rental company may not charge  
13 the renter any amount for the rental for the period after the renter  
14 notifies the rental company to pick up the vehicle.

15 (9) Except as otherwise permitted pursuant to the customer  
16 facility charge, a rental company may not separately charge, in  
17 addition to the rental rate, a fee for transporting the renter to the  
18 location where the rented vehicle will be delivered to the renter.

19 (e) A renter may bring an action against a rental company for  
20 the recovery of damages and appropriate equitable relief for a  
21 violation of this section. The prevailing party shall be entitled to  
22 recover reasonable attorney's fees and costs.

23 (d) Any waiver of any of the provisions of this section shall be  
24 void and unenforceable as contrary to public policy.

25 (e) This section shall become operative only if the Secretary of  
26 Business, Transportation and Housing provides notice to the  
27 Legislature and the Secretary of State and posts notice on its  
28 Internet Web site that the conditions described in Section 13995.92  
29 of the Government Code have been satisfied.

31 \_\_\_\_\_  
32 CORRECTIONS:

33 Digest—Pages 1 and 2.  
34 \_\_\_\_\_